Lesson Output Description



Use of Force and Firearms by UN Police

Lesson at a Glance

Aim

To provide an understanding of human rights implications related to the use of force by law enforcement officials.

The lesson will also familiarize participants with the procedures to follow once human rights violations, as a result of the use of force, have been detected and with actions to prevent them from occurring.

Relevance

As UNPOL, you must:

- Have a clear understanding of human rights standards related to the use of force that:
 - must be followed by UNPOL in its own operations, and
 - guide UNPOL's monitoring, mentoring and advising for the host-State police
- Take actions to prevent abuses
- Follow procedures after force is used

Learning Objectives

Participants will be able to:

- Apply the principles on use of force based on the relevant international human rights standards
- Explain the permissible circumstances and procedures for the use of force and/or firearms
- Determine the appropriate means of force and/or firearms in different situations typical for Peace Operations

Lesson Map

Introduction	Slides 1-5
Scenario 1	Slides 6-7
Definition of Force	Slide 8
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Legal Basis for UN Police Use of Force	Slide 11
Principles of Use of Force, including Scenario 3	Slides 12-24
Use of Firearms, including Scenario 4	Slides 25-28
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Discussion: Use of Force's Implications	Slide 31
Take-aways and Questions	Slides 32-33

The Lesson

Duration: 90 minutes total

30 minutes: interactive presentation 60 minutes: scenario-based discussions

The facilitator should have expertise in the legal framework for UN Peacekeeping, covered in CPTM 1.4, especially International Human Rights Law, Humanitarian Law and Refugee Law.

This lesson is best presented by an instructor who has experience in International Human Rights Law and practice, who could share his/her experience with the group.

For further guidance on police implementation of standards, and suggestions for discussions and exercises, trainers delivering the lesson are also encouraged to refer to the relevant documents:

- DPKO-DFS Guidelines on Police Operations in United Nations Peacekeeping Operations and Special Political Missions, Ref. 2015.15, 01 January 2016 [https://peacekeeping.un.org/sites/default/files/4. rule of law -_8_police_operations.pdf]
- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990) [http://www.unhchr.ch/html/menu3/b/h_comp43.htm];
- Code of Conduct for Law Enforcement Officials (1979)
 [https://www.un.org/ruleoflaw/blog/document/code-of-conduct-for-law-enforcement-officials/];
- OHCHR, UNODC Resource book on the use of force and firearms in law enforcement (2017) [https://www.un-ilibrary.org/content/books/9789213630945]
- OHCHR Training Series N.5, Human Rights and Law Enforcement: A Manual on Human Rights Training for the Police, pages 84-90 [http://www.ohchr.org/Documents/Publications/training5en.pdf];



Starting the Lesson

To bridge into the topic of the lesson, ask participants who have been deployed to Peace Operations if any difficult issues related to the use of force arose – either in UNPOL's own operations or in relation to conduct for the host-State police.

Introduce the following (using slides 1-4):

- Aim
- Relevance
- Learning Objectives
- Lesson Overview

Explain that effective law enforcement not only restores public law and order, but also assists in reestablishing the confidence of the population in the capacity of the State to govern and to provide safety and security. To reestablish confidence in the rule of law UN Police have a great responsibility to ensure that law enforcement is exercised lawfully and effectively.

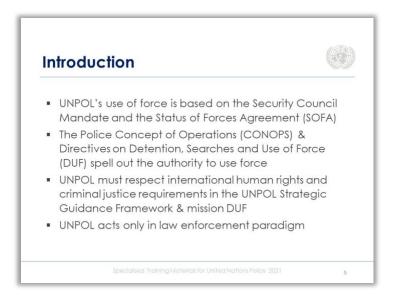
Here are two reasons why UNPOL personnel must be well aware of the use of force standards:

- UNPOL may use force itself (typically by FPUs, but sometimes also by IPOs)
- UNPOL must emphasize use of force standards in their mentoring, monitoring and advisory work, which is mainly being carried out by IPOs.

Note the particular language of the UN. Learning will involve some words, terms and phrases which may be unfamiliar and/or seem awkward. Note to the learner: "Do not let the language get in the way of learning". As you move through the training, review the definitions of key words and phrases.

Introduction

Slide 5



Key message: The mandate is the true source of use of force authority. International standards on the use of force are integrated into UNPOL regulations and guidance and must be implemented during UNPOL's daily activities.

United Nations police, including IPOs and FPUs, must exercise their powers in strict accordance with the United Nations Security Council Resolution(s) and other official issuances applicable to the mission to which they are assigned. They must also exercise their functions in strict accordance with international human rights, UN standards and norms on crime prevention and criminal justice, and international policing standards. These standards are incorporated into the UNPOL Strategic Guidance Framework (SGF) that applies to all mission and the mission-specific Concept of Operations (CONOPS) and Directive on the Use of Force (DUF).

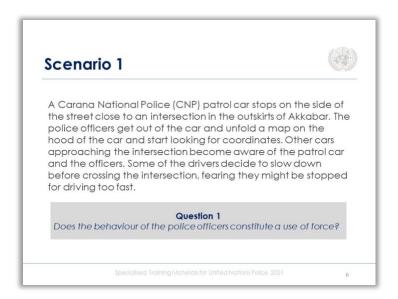
UNPOL consistently acts in the law enforcement paradigm, and there are hence significant differences to the Rules of Engagement (RoE) for military components. This notwithstanding that some FPUs may be drawn from militarized gendarmerie forces that operate under very broad use of force powers in their home country.

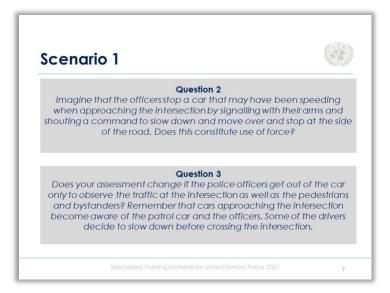
The DUF will typically impose stricter standards on use of force than RoE for the military component (law enforcement v. IHL paradigm). The DUF continues to apply to and restrict UNPOL force even if FPUs are exceptionally under the tactical command of the military component. For their own protection, <u>UNPOL must not become a direct participant in military hostilities</u>. UNPOL will never use military-level force and hence the more permissive international humanitarian law rules on hostilities will never guide its work.

In their monitoring, mentoring and advising (MMA) work, IPOs must also emphasize that the host-State police should operate in a human rights/law enforcement paradigm.

Exceptions can only apply if gendarmerie-type militarized police forces are exceptionally used in military operations and only for the duration of that operation. Otherwise, host-State police must abide by the more restrictive international human rights and criminal justice standards on the use of force.

Slides 6 and 7







Facilitate a discussion by presenting the scenario then asking the questions that follow. The scenario is designed to introduce the topic of and spark discussion on the meaning of use of force. Expected responses are:

Question 1 Response: <u>No</u>, it does not constitute the use of force. There is no action from the CNP, neither visible nor intended, directed at another person.

Question 2 Response: Yes, it does, direct actions with the intent to influence the decisions made by the driver.

Question 3 Response: Observation is directed at drivers, pedestrians etc. However, there is no intention to intervene or control the situation, hence, no use of force.



Key message: The terms "force" and "use of force" cover a broad range of actions, not only the use of firearms.



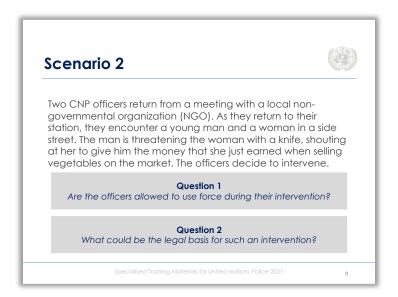
Before showing the slide, instructors may wish to briefly brainstorm with participants on a definition of force and complement with the expected outcome.

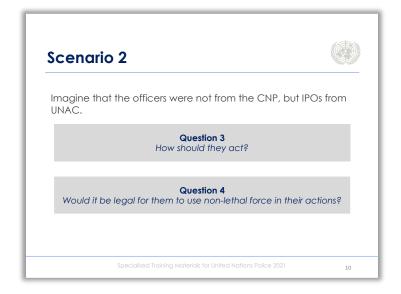
There is no internationally defined concept of "force" and definitions found in main dictionaries usually refer to a variety of terms such as "strength", "power", "violence". Someone can be i.e., against the 'use of force' intended in a military way but determined to use force to avoid that a person will hurt another person. The police itself are often referred to as "police force" focusing on the power aspect of the institutional cohesion.

UN Police are often familiar with the ways in which "force" has been defined under their own domestic laws and codes and that represents certainly a good starting point for discussions.

"Use of force" mainly refers to the use of physical means that may harm a person or cause damage to property. Physical means include the use of hands and body by law enforcement officials; the use of any instruments, weapons or equipment, such as batons; chemical irritants such as pepper spray; restraints such as handcuffs; dogs; and firearms. The actual use of force has the potential to inflict harm, cause (serious) injury, and may be lethal in some instances.

Slides 9 and 10







Facilitate a discussion by presenting the scenario then asking the questions that follow. The scenario is designed to introduce the topic of and spark discussion on the legal basis for use of force and the principles that guide it. Expected responses are:

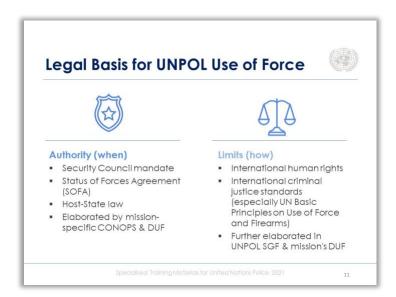
Question 1 Response: Yes, with the intention to prevent further harm to the woman.

Question 2 Response: The intervention could be based on the intention to prevent further harm to the woman (preventive) and could, therefore, come from the Carana Police Code. The intervention could also be based on the code of criminal procedures with the intention to arrest a suspect and make him subject to criminal proceedings.

Question 3 Response: Intervene, to prevent further harm to the woman, while accounting for their own safety. The arrest of the perpetrator is only a secondary aim and can only be conducted based on the applicable rules for IPOs in Carana.

Question 4 Response: This needs to be determined by the DUF – UNAC DUF para. 26 determines the use of lethal force. Based on provision Para. 26 Sec. and in accordance with the principle of proportionality.

Slide 11



IPOs must be able to distinguish <u>when</u> UNPOL or host-State police may use force (authority to use force) and <u>how</u> they may use force (limits on the use of force).

Authority to use force ("WHEN")

Security Council Mandate

The authority for UN Police to use force directly and/or carry out other functions such as mentoring and advising will derive, in each specific situation, from the mandate established by the UN Security Council.

Status of Forces Agreement (SOFA)

UN Police deployments and activities are to be based on a legal framework. Prior to the deployment of a peacekeeping operation, a Status of Forces Agreement (SOFA) is concluded with the host-State government regulating the presence of the operation. The SOFA outlines the general procedures and tactics to be employed under the provisions and authority of the mandate. ¹

Directive on the Use of Force (DUF)

The DUF for each Mission is developed by the Police Division in consultation with the UN Offices of Operations (OO) and Legal Affairs (OLA) to define and explain the policy, principles, and responsibilities relating to the use of force, including the limits therein and

¹ DPKO-DFS Guidelines on Police Operations in United Nations Peacekeeping Operations and Special Political Missions, Ref. 2015.15, 01 January 2016 [https://peacekeeping.un.org/sites/default/files/4._rule_of_law_-_8_police_operations.pdf]

the circumstances under which force could be used in self-defence or defence of the mandate, including protection of civilians.

The specific DUF are confidential mission documents and will be provided once the UNPOL officer arrives in the mission. Upon arrival in the mission every UNPOL officer must make themselves familiar with the DUF.

Although the term Rules of Engagement should be used in relation to military components only (as engagement relates to military hostilities), some of the older missions may still use the term ROE for guidance documents on the use of force by UNPOL.

Host-State Law

At the start-up of the mission and as guided by the mandate, the Head of Mission and the Head of Police Component – with the mission's legal, judicial affairs and human rights offices – should determine what legal framework shall guide United Nations Police activities. If a decision is taken in favour of applying the legal framework of the host-State, the mission shall verify whether it complies with international norms and standards in criminal justice and crime prevention, human rights and humanitarian law.

In some operations to support the host-State police, UNPOL may follow the law of the host-State, to the extent that law is itself in line with international standards. When there is a discrepancy between national law and international standards, UN Police will have to observe international law (except of course if national law provides for better human rights protection). In case of apparent contradictions, UNPOL should seek guidance from their chain of command.

For monitoring, mentoring and advising the local police, UNPOL must familiarise themselves with the host national legal framework for law enforcement. Where that national law falls short of international standards, UNPOL (jointly with other mission components like the human rights and rule of law components) will work with the host-State authorities to align host-State laws and police regulations with international standards.

Limits on Use of Force ("HOW")

International Human Rights Law

International instruments such as the Universal Declaration of Human Rights, the International Covenant of Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment contain binding limits on the use of force by police services (whether by UNPOL or by the host-State police). There are also regional instruments (African Charter, Inter-American Convention, European Convention) which regulate respect of human rights put at risk by the use of force.

International criminal justice standards

The content of these human rights provisions is further defined by General Assembly resolutions and other international documents adopted by member states. Key non-treaty standards for the work of law enforcement officials include the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials² and the United Nations Code of Conduct for Law Enforcement Officials³.

These provide detailed guidelines for the conduct of law enforcement functions, covering issues such as use of force and firearms, arrest and detention, special rules for women and for children. The UNPOL Strategic Guidance Framework requires UN Police to comply with the Basic Principles and other relevant international standards.

UN Police leadership should make sure that the DUF and any other mission-specific guidance related to the use of force are consistent with applicable international law and that the relevant training is provided to all UNPOL personnel.

UNPOL must also base their monitoring, mentoring and advising to the host-State police on these standards and help ensure that those standards are understood and observed by host-State police.

² Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990) [http://www.unhchr.ch/html/menu3/b/h_comp43.htm]

³ Code of Conduct for Law Enforcement Officials (1979) [http://www2.ohchr.org/english/law/codeofconduct.htm]



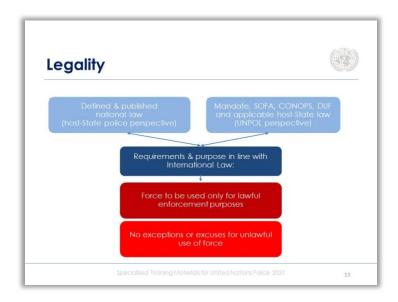


The slide introduces the main principles of use of force including the concept of precaution which will be explained in greater detail during the following slides.

Any use of force in law enforcement (whether by UNPOL or the host-State police) must be based on the principles of legality, necessity, proportionality, non-discrimination, precaution and accountability. 4,5

⁴ DPKO-DFS Guidelines on Police Operations in United Nations Peacekeeping Operations and Special Political Missions, section D6.87, Ref. 2015.15, 01 January 2016 [https://peacekeeping.un.org/sites/default/files/4, rule_of_law - 8_police_operations.pdf]

⁵ OHCHR, UNODC Resource book on the use of force and firearms in law enforcement (2017) [https://www.un-ilibrary.org/content/books/9789213630945]

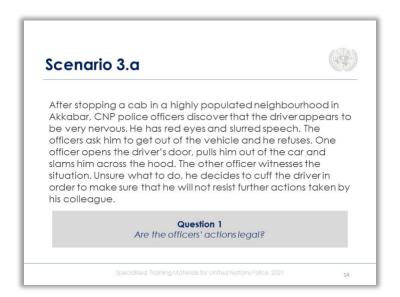


The principle of legality has three components:

There must be a sufficiently defined legal basis authorizing the police use of force.
For the host-State police, this will be in the national law and police regulations
building on it. For UNPOL itself, the legal basis for the use of force Is typically the
mandate, as elaborated by the SOFA, CONOPS and DUF.

To prevent abuse, domestic law needs to define when law enforcement officials may use force and for what purpose. In order to safeguard against arbitrary interpretation and abuse, the provisions must be clear and unambiguous, so that they are foreseeable both to those applying them and to those that will be affected by their application, i.e. both to law enforcement officials and the public.

- 2. The legal basis must comply with international law.
- The use of force can be justified only when it is used with the aim of achieving a lawful law enforcement objective. Therefore, any use of force that occurs for another purpose, such as for personal gain or as an ad hoc punishment, would not be compliant with the principle of legality.





Facilitate a discussion by presenting the scenario then asking the question that follows. The scenario is designed to explore principles that guide the use of force. The expected response is:

Question 1 Response: The principle of necessity is not apparent. Pulling the person out of the car and slamming him across the hood is not proportional.

The necessity for handcuffing is questionable. Explore this in discussion. However, since the initial intervention by the first officer is deemed to be illegal, further interventions that are related to it must be deemed illegal as well, especially if the handcuffing may serve to facilitate further abuse through unnecessary force.

Slide 15



Key Message: Use of force is the last resort; law enforcement officials shall apply as far as possible non-violent means before resorting to the use of force and firearms. Police must seek to proactively deescalate potentially violent situations.

Two steps can be employed to determine whether the use of force was necessary:

- 1. <u>No force if non-forcible means can be employed</u>. For instance, if police can negotiate a voluntary surrender with a target person who barricaded himself/herself, then no force is necessary to arrest that person.
- 2. Only minimum use of force necessary. For instance, if a target person can be safely and effectively overwhelmed and arrested with bodily force alone, it is not necessary to employ a Taser or other less lethal weapon.

"Law enforcement officials may use force only when strictly necessary [and to the extent required] for the performance of their duty⁶." This is reiterated in principle 4 of the Basic Principles: "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means are deemed ineffective or without any promise of achieving the intended result"⁷.

UNPOL, just like the host-State police, should only use force when it is absolutely necessary to achieve a lawful and legitimate policing objective. Moreover, the type and level of

⁶ Article 3 of the United Nations Code of Conduct for Law Enforcement Officials (1979) https://www.un.org/ruleoflaw/blog/document/code-of-conduct-for-law-enforcement-officials/

⁷ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990) [http://www.unhchr.ch/html/menu3/b/h comp43.htm]

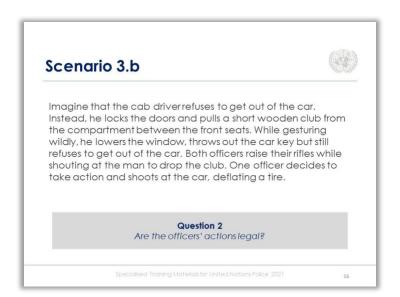
force used should also be able to achieve the law enforcement objective pursued. Thus, before resorting to force, UNPOL, including FPUs, should always ask themselves: is it possible to achieve the same goal without using force? For example, is it possible to ask someone to cooperate, rather than coerce? Is it possible to negotiate or mediate? If possible, such non-violent alternatives should be attempted and exhausted before resorting to force. Moreover, UNPOL should only resort to a certain forcible measure if that measure can alleviate the threat posed.

When resorting to force, UNPOL should use the minimum necessary force required to meet the law enforcement objective. Using force that goes beyond the minimum required would be considered unnecessary use of force and thus in violation under international law. Furthermore, the principle of necessity also includes a temporal component, meaning that force can only be lawfully used until the law enforcement objective is accomplished or can be accomplished. Once the objective has been met or it becomes clear that it cannot be met anymore, the use of force becomes unnecessary and should cease.

The Strategic Guidance Framework for International Policing (see notably the FPU Policy)⁸ is very clear on the need to prioritise de-escalatory measures in UNPOL operations. IPOs should also emphasize in their MMA work that host-State police de-escalate critical situations to minimize the use of force and the resulting risks for target persons, innocent bystanders and the officers themselves. By focusing on de-escalation, officers can make their own work easier and safer.

Specialised Training Materials for UN Police 2021

⁸ Policy on Formed Police Units in United Nations Peacekeeping Operations (2016) https://police.un.org/en/policy-formed-police-units-united-nations-peacekeeping-operations-2016





Facilitate a discussion by continuing the scenario then asking the question that follows. The scenario is designed to explore principles that guide the use of force. The expected response is:

Question 2 Response: No, there was no need to use the firearm to incapacitate the vehicle to prevent the driver from escaping, not least because the driver could not start the vehicle without its key. Also, regarding the use of firearms, generally the requirements are particularly high and must be respected by both the host-State police and UNPOL. In this scenario, the officers should have worked towards de-escalating the situation, for instance by verbally calming down the driver, giving him time to do so and give up his weapon.



Key Message:

- Whenever the lawful use of force is unavoidable, UNPOL shall act in proportion to the seriousness of the offence or threat and the legitimate objective to be achieved.
- Damage and injury is to be minimized.
- A range of means for differentiated use of force is to be made available.

The principle of proportionality serves to maintain a good balance between the harm caused through the use of force and the benefits thereby achieved. Principle 5 of the Basic Principles provides: "Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved"?

Any law enforcement official (including IPOs and FPU) considering the use of force should consider the balance between the type and level of force used and the harm that it can cause for the subject with the threat posed by the subject. The law enforcement objective pursued is linked to the level of threat posed by the subject of the law enforcement action. Thus, an important consideration when establishing the proportional response is the level of threat to life and property that is being experienced. Once the harm caused by the use of force outweighs the advantages of its use (the achievement of the law enforcement objective), use of force becomes disproportionate. This may require that UNPOL aborts the operation. For example, if catching a petty thief would

⁹ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990) [http://www.unhchr.ch/html/menu3/b/h_comp43.htm]

require the use of firearms (i.e., potentially lethal force), law enforcement officials should refrain from using such force even if that means that the thief may escape ¹⁰. During their MMA activities UNPOL has to emphasize that the host country law ensures that the principle of proportionality is duly considered in law enforcement and that officers do not incur negative consequences when aborting operations in such cases. If host-State regulations are too permissive, UNPOL in cooperation with rule of law and human rights components should advocate for reform, while advising their individual host-State counterparts to interpret such regulations cautiously in line with international law.

It is important to clarify that proportionality in the policing context means something entirely different than under International Humanitarian Law (IHL) as applicable to military components.

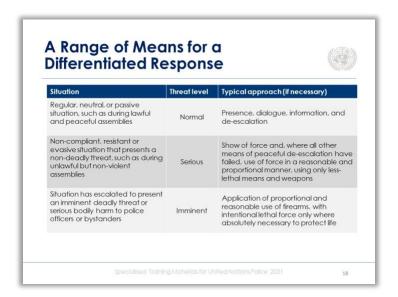
Firstly, proportionality requires weighing up injuries to the target person and the legitimate objective (whereas in IHL only innocent bystanders = civilians are considered in that equation).

Second, unlike the military, which may accept that certain civilian losses ("collateral damage") occurs in armed conflict, police cannot accept civilian casualties in their operations (unlike military, police cannot for example bomb a house with target persons if they know that some innocent bystanders such as hostages would die in the operation - whereas military engaged in armed conflict hostilities could bomb the place as long as there is no disproportional loss of civilian life).

It is important to acknowledge that proportionality considerations are based on what a reasonable officer knew or could have known at the time, also considering the "heat of the moment." Necessity and proportionality considerations are not made with the perfect knowledge the officer may have in hindsight. Example: A person points a gun at the officer and threatens to shoot the officer. The officer may assume to be facing a deadly threat, even if it turns out later that the person's gun was not loaded.

¹⁰ OHCHR, UNODC Resource book on the use of force and firearms in law enforcement (2017) [https://www.un-ilibrary.org/content/books/9789213630945]

Slide 18



Key message: The type and development of the situation determines what approach is proportional.

Gradation of the level of response and early involvement to prevent possible escalation of the situation are the norm. Dialogue and mediation must be applied whenever possible. In accordance with the Basic Principles, an escalation in the level of force should only take place if preceding measures have proven ineffective or hold no promise to achieve an authorised objective. Forceful means are only to be introduced when they are strictly necessary for the maintenance of public order, to protect life and property and to prevent a serious deterioration of the security situation.¹¹

In a regular, neutral or passive situation, such as during lawful and peaceful assemblies, the approach should be based on presence, dialogue, information and de-escalation.

Where target persons are non-compliant, resistant or evasive, use of force that is necessary and proportional can be used, including only less-lethal means and weapons.

When the situation has escalated to present an imminent deadly threat or great bodily harm to police officers, any necessary use of lethal force can be applied (with "shooting to kill" only where absolutely necessary to protect life).

¹¹ DPKO-DFS Guidelines on Police Operations in United Nations Peacekeeping Operations and Special Political Missions, Ref. 2015.15, 01 January 2016



Key message: To give meaning to the principles of necessity and proportionality, UNPOL should be able to choose from a range of instruments and techniques to use force in order to opt for the least intrusive and most proportional one in the circumstances to achieve the legitimate policing objective.

Possible learning activity before the explanation: Based on this slide with the different means of force, ask participants how this applies in their own national context and if it would be possible to use these means of force in UN missions. This activity aims to sensitise participants to UN standards. Time: 5-7 min.

The scale of force, or continuum of force, should not be understood to imply that UNPOL should be going up and down step-by-step depending on the resistance encountered.

Indeed, IPOs/FPUs will not (and should not) try every means at their disposal one by one but will, based on their assessment, in line with the legal framework and the policies in use, choose what they believe to be the most appropriate response to a given situation.

Moreover, UNPOL should be able to choose between different instruments and types of force allowing them to escalate and de-escalate depending on the situation. This requires for them to be equipped with and trained in the use of various instruments and techniques of force, so that they are aware of the potential impact of the different instruments and can make an informed decision as to when to choose which instrument.

An overview of the more commonly used types and means of force in law enforcement includes:

1. Not using instruments:

- Open-hand techniques, such as a raised open hand or pushing someone back with the palm of the hand;
- Pressure point techniques;
- Body impact (pushing);
- Hard empty hand techniques, such as holding someone's arm behind the back;
- Closed hand techniques (fists).

2. Using instruments:

- Sticks, batons, truncheons:
- Use of shields to push people back;
- Handcuffs and other restraints;
- Chemical irritants, such as "pepper" or OC spray and tear gas;
- Water cannon;
- Dogs and other animals;
- Electroshock weapons, including stun guns, batons and "tasers";
- Kinetic impact weapons, such as baton rounds or rubber bullets, bean bags;
- Firearms.

This list is not comprehensive, as there are many other instruments of force, and new ones are being developed on a regular basis. In practice, most applications of force in law enforcement do not involve using instruments but instead the use of an officer's hands, arms and body to push or pull against the subject to gain control.



Key message: Non-discrimination is a fundamental obligation to respect, protect and fulfil respective human rights, as it is essential for ethical, legal and democratic policing.

Upon the International Basic Principles on the Use of Force and Firearms by Law Enforcement Officials in the performance of their duty, UNPOL shall respect and protect human dignity and maintain and uphold the human rights of all persons¹².

This means that IPOs/FPUs have the duty to respect and protect the human rights of every person, without discrimination on the basis of their race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

For instance, it would be unlawful to introduce racial profiling at stop and search checkpoints by searching only persons of a particular ethnicity or language groups, even if members of that group tend to be disproportionally represented in relevant criminal activities.

The principle of non-discrimination must also be built into the assessment of necessity and proportionality of the use of force to avoid that excessive or arbitrary force is used against a person out of prejudice or with discriminatory intent.

OHCHR, UNODC Resource book on the use of force and firearms in law enforcement (2017) [https://www.un-ilibrary.org/content/books/9789213630945]



Key message: UNPOL officers at all levels should take precautions to avoid or minimize the use of force. This requires above all effective planning prior to law enforcement operations.

Precaution requires UNPOL to plan their operations with regard to:

- equipment available with proper training given;
- personnel used and the orders they're given;
- command and control arrangements;
- consideration of particularly vulnerable groups (such as children, elderly persons etc.).

Planning must ensure that law enforcement officers on the scene (whether they are UNPOL or host-State police) are not placed in a situation where they end up having to use more force than necessary or proportional.

Negative examples of failing to heed precautionary principle:

- UNPOL must use firearms against a violent crowd, because they were deployed in too small numbers or without less lethal equipment.
- The host-State police failed to gather sufficient intelligence on a potentially violent target and therefore wrongly assumed that the target would use lethal force (despite being unarmed in reality).
- An innocent bystander is caught in the crossfire during a planned police raid against a criminal gang and bleeds to death because the police failed to plan for medical assistance being available.



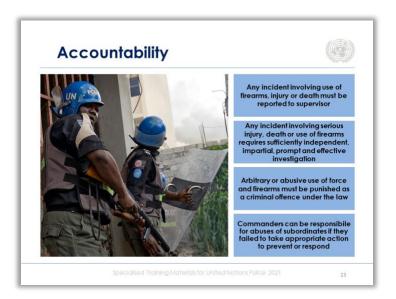
Key message: UNPOL must have the proper equipment with adequate training to be able to effectively fulfil their duty and protect others and themselves.

The MoU (Memorandum of Understanding) - agreement between police contributing country (PCC) and United Nations details what equipment deployed IPOs or FPUs have to bring to the mission. The DUF further specifies what type of equipment is authorized and what is not (for instance, FPUs are not allowed to use rubber coated metal bullets for purposes of public order management).

Compliance with equipment arrangements is mandatory. Shortcomings can violate the principle of precaution (see above) and place innocent bystanders, target persons and UNPOL at risk.

The more exposed and unprotected police officers are, the more likely they are to resort to a higher and potentially excessive level of force. It is therefore important, for instance, that efforts to provide host-State police with less lethal equipment and related training, also include defensive equipment such as riot shields.

Slide 23



Key Message: Police officers will be investigated, subjected to due process, and punished for any excessive, arbitrary or abusive use of force and/or firearms.

Incidents involving police use of force, especially use of firearms, are subject to reporting and review requirements that are detailed in the UN Basic Principles on the Use of Force and Firearms and the UN Code of Conduct for Law Enforcement Officials

Any incident involving use of firearms, injury or death must be immediately reported to the supervisor of the officer(s) involved. For instance, if an FPU has been involved in an operation or action involving force, incident reports must be written and submitted – in the first instance – to the Deputy-Chief Ops (FPU). Further reporting procedures and arrangements are to be defined in the mission-specific guidance.

For cases involving use of firearms, serious injury or death, the police must promptly and ex officio (i.e., regardless of a complaint by the target person) initiate an investigation in line with the respective mission-specific guidance.

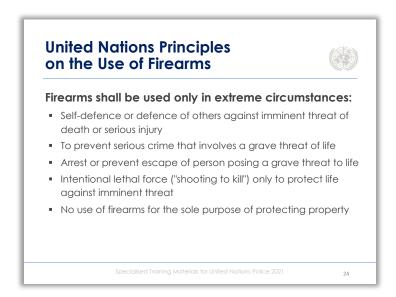
If the investigation finds that police officers used force excessively or abusively, the requisite disciplinary and criminal measures must be initiated, and officers involved punished. Such incidents can also entail responsibility for superior officials who knew or should have known about abuses but failed to take appropriate action to prevent or respond.

UNPOL will regularly monitor, mentor and advise the host-State police on how to investigate police use of force incidents in line with international standards. IPOs may be tasked to provide technical advice and assistance to host-State oversight services and support them in becoming professional and effective.

Commanders at strategic, operational and tactical levels should be held accountable for any use of any force.

Senior police commanders shall ensure that adequate instructions are in place to guide United Nations Police actions when confronted with human rights violations while performing their functions.

It is the commander's responsibility to properly report use of force immediately after the operation through the established chain of command and facilitate the respective investigation or review. Commanders will be held accountable for any excessive use of force by police officers under their command, irrespective if they ordered the use of force or not.



Key Messages:

- Firearms are always the last option and can be used only when less extreme means are insufficient.
- "Shooting to kill" may only be employed to protect life against an imminent threat.
- Firearms must never be used for the sole purpose of protecting property.

The use of firearms is always potentially lethal, and UNPOL should abide by the highest standards of care in resorting to their use. Moreover, the use of firearms may harm third persons present at the scene of the operation. Indeed, to protect the right to life, UNPOL officers should make every reasonable effort to exclude the use of firearms.

Principle 9 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states that a law enforcement official shall not use firearms against persons except:

- In self-defence or in defence of others against the imminent threat of death or serious injury;
- To prevent the perpetration of a particularly serious crime involving grave threat to life;
- To arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and
- Only when less extreme means are insufficient to achieve these objectives.

Hence, firearms should not be used:

- to effect an arrest or prevent an escape,
- to disperse or control a crowd,

unless the individuals pose an imminent or continuous threat of death or serious injury.

It follows that as soon as there is no longer such a threat to life or limb, firearms cannot be lawfully used.

As firearms should only be used to protect human life or against serious injury, it follows that a threat merely against property cannot justify using firearms against a person.

Firearms should not be used to prevent a theft or to safeguard other interests such as property (including public property, such as government buildings), unless any of these incidents are accompanied by an imminent threat of death or serious injury. For instance, imminent and credible threats to destroy a nuclear facility, dam, or airplane may constitute examples where lethal force is necessary.

And on the contrary, a fleeing thief who poses no immediate danger should never be shot at, even if it means that the thief will escape. Similarly, someone driving through a roadblock, but otherwise posing no apparent immediate danger, should not be killed or fired at.

Intentional lethal use of firearms

Principle 9 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials restricts the use of firearms to situations where there is a threat to life or serious injury. The force applied must be aimed at stopping the threat. But on rare occasions the only way to achieve this objective is by killing the person posing the threat. In these situations, UNPOL officers may resort to the "intentional lethal use of firearms".

In this situation, intentional lethal use of firearms may only be made when strictly unavoidable to protect life. This threshold is higher than the one for using potentially lethal force, which is also allowed to protect against serious injury.

It is important to distinguish between shoot-to-kill orders during concrete operations, and shoot-to-kill policies. Intentional lethal use of firearms can only be lawful when it is strictly unavoidable to protect life in a particular situation; any other reason for an intentional killing would amount to arbitrary use of force, and possibly to an extrajudicial, summary or arbitrary execution, which is a gross violation of human rights.

Any policy, or any order that allows for the intentional lethal use of a firearm with any other purpose than to protect life, is always in violation of principle 9.

Yet, during a particular operation, with an identified target posing an immediate threat to life and only when there are no other means available to reduce the threat, a "shoot-to-kill" order can be given, as for example with a suicide bomber who is ready to detonate his or her explosive device or an "active shooter" scenario where the suspect(s)

have already used lethal or potentially lethal force, have demonstrated an intent to continue to use such force and thereby pose a threat to further persons.

Slide 25



Key Message: The use of firearms must follow a procedure incorporating a clear warning.

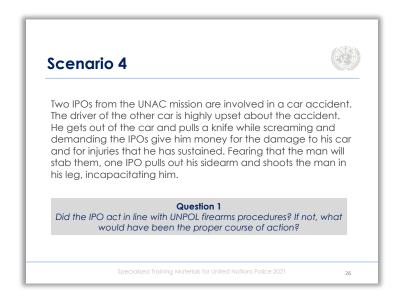
Before using firearms, UNPOL must follow this procedure:

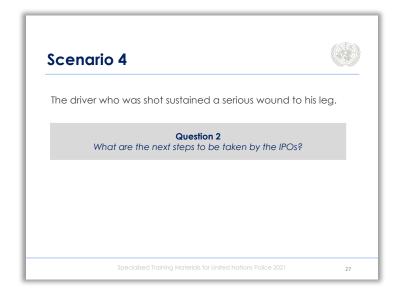
- Officer to identify himself/herself as police official.
- Officer to give a clear verbal warning (not a warning shot due to the risk involved).
- Officer to allow adequate time for warning to be obeyed.

No warning is required if the resulting delay places the law enforcement officials or others at risk of death or serious harm to other persons or would be clearly inappropriate or pointless in the circumstances. For instance, if a target person pulls a gun and it looks as if the person is about to shoot an officer, the officer may immediately shoot without given warning.

The requirement to give warning must be also followed by host-State police. Some national police forces have authorized the use of warning shots, UNPOL officers should advise that police officers do not use warning shots in circumstances where they place innocent bystanders at risk (e.g., by firing warning shots using life ammunition in densely populated places).

Slides 26 and 27







Facilitate a discussion by presenting the scenario and then asking the questions that follow. The scenario is designed to explore procedures for the use of firearms. The expected responses are:

Question 1 Response: No, the IPO did not identify himself, give a warning etc. – arguably, participants may conclude that there was no time for this procedure. ATTENTION: Participants should be mindful of the circumstances: the man was just involved in a car accident and may act under shock and a high stress level.

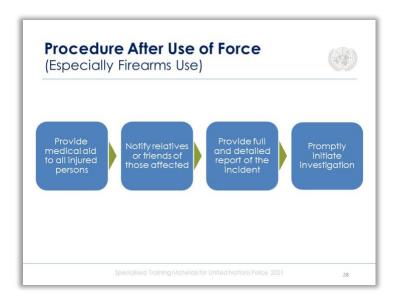
The proper course of action: draw the gun – for self-defence as the man could attack the IPOs with his knife at any time. Create distance and potentially try to get behind a

car to have an obstacle between the IPOs and the perpetrator. Then go through steps on slide 25 with the aim to cause the perpetrator to surrender his gun.

Ask participants to consider what this situation means for the IPO's personal security at that very moment.

Question 2 Response: Transition to slide 28 after discussing the response to the second question. The proper procedures are:

- Provide medical aid to all injured persons
- Notify relatives or friends of those affected
- Provide full and detailed report of the incident
- Promptly initiate investigation

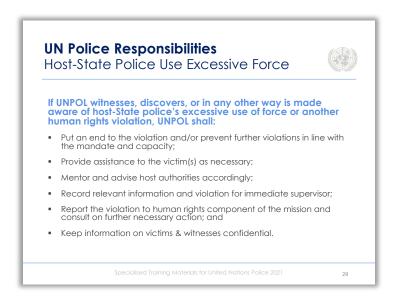


Key Message: UNPOL officers must ensure that anyone injured during a police operation receives proper assistance or first and/or medical aid promptly and that relatives and friends of affected persons are notified.

After any use of force, UNPOL must ensure that assistance or medical aid is promptly provided to all injured persons (innocent bystanders, target persons and officers). This applies regardless of who caused the injury.

Furthermore, the police must ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.

These requirements are at the top of the reporting and investigation requirements detailed on the previous slide.



Key Message: UNPOL must respond to excessive use of force by host-State police.

Contemporary Peace Operations are typically non-executive missions, where general policing powers, including the authority to use of force to enforce the law, remain the prerogative of the host-State police. In such missions, UNPOL may only use force in a narrow range of circumstances notably for purposes of self-defence and defence of others.

In a non-executive mission, UN Police has a responsibility to ensure that the host country police uses force and firearms in full compliance with international human rights standards. When witnessing or being informed about a human rights violation related to the use of force and firearms, UN Police must:

- Intervene with local police or other state officers in view of putting a stop to the human rights violation (type and level of engagement will depend on the specific situation, UNPOL capacity and mandate). This may involve on the spot advocacy to stop the violation. If the mission has a Protection of Civilians mandate and the capacity to enforce it in the circumstances, UNPOL may stage a physical intervention to protect civilians even if the threat comes from the host-State police officers;
- Ensure assistance to the victim as necessary (the person may be wounded and requiring medical assistance or seek help to file a complaint for reparations). Upon assuming their duties, UNPOL should inform themselves about established referral paths for different types of victims (e.g. victims of sexual violence);

- Determine on what and how to mentor/advise local police to avoid further violations. By implementing the international standards in mentoring, advising and training of the host country police accordingly, UN Police can limit the occurrence of future violations. In many cases, UNPOL will also follow up with host-State internal investigative bodies (e.g. the Inspector General of Police) to ensure that allegations of excessive force are properly investigated and identified perpetrators prosecuted. Accountability is an effective deterrent against future human rights violation.
- Properly record relevant information about the violation, the officials involved, the victims and witnesses.
- Promptly share the information with human rights components in the mission through appropriate mission procedures (usually the mission has an SOP on information sharing). Information on violations against children or involving conflict-related sexual violence should be shared with the mission's child protection advisers and women protection advisers.
- Personal information about victims and witnesses should be kept strictly confidential and only shared within the mission on a need-to-know basis to avoid any leaks resulting in reprisals. In particular, the names of particular victims and witnesses should not be included in weekly reports and other documents with broader circulation in the mission.



Key Message: UNPOL must adhere to international standards on the use of force when it operates under an executive mandate or is otherwise authorized to use force.

On some past occasions (for instance, UNTAET in Timor Leste or UNMIK in Kosovo), the United Nations was mandated to assume responsibility for upholding law and order under an executive mandate. In an executive mandate, UNPOL may base their police work on special UN regulations or pre-existing host-State law. In any case, use of force has to be carried out with full respect for international human rights and criminal justice standards.

Exceptionally, UNPOL may also use force in a non-executive mandate, for instance in self-defence or to protect civilians.

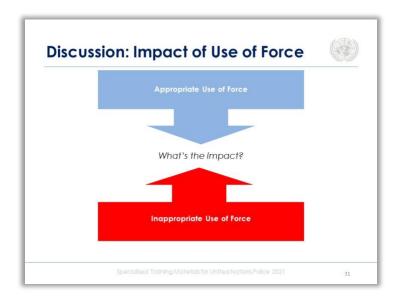
Currently, there are six missions with explicit POC mandates: MINUSMA (Mali), MINUSCA (Central African Republic), UNISFA (Abyei/South Sudan), UNIFIL (Lebanon), UNMISS (South Sudan) and MONUSCO (Democratic Republic of Congo).

On some occasions, a mission may also receive special mandates authorizing the use of force in support of the host-State authorities. Notably, MINUSCA has been mandated to adopt, at the request of the host-State authorities, urgent temporary measures to arrest and detain in order to maintain basic law and order and fight impunity. In these situations, force must be used in accordance with the DUF, which will incorporate international standards.

In carrying out policing functions, UN Police must respect the legislation applicable in the host country insofar as it is not in conflict with United Nations human rights norms and standards or United Nations rules, regulations and other issuances.

In situations when use of force and firearms are carried out directly by the UN Police, they are required to fully respect human rights. Abuse of authority, excessive use of force and other serious misconducts possibly committed by UN Police have to be reported to the Head of Mission who will start a preliminary investigation.

Emphasize that, in addition to the mandate, there are specific mission 'Directives on the Use of Force and Firearms' (DUF), which are confidential and will be provided once UNPOL officers arrive in their mission. Upon deployment in the mission, it is the UNPOL officer's responsibility to make him/herself familiar with this document.



Key Message: UNPOL's compliance with the use of force international standards has direct implications on its mandate implementation and on the mission as a whole.

UNPOL must carefully plan its operations to use enough force to effectively implement its mandate, while not using excessive force. The use of force should be limited and carefully considered.



Use the notes below to facilitate a discussion with participants on the impact of the inappropriate use of force and of the appropriate use of force. Ask a participant to record responses on a flip chart.

Inappropriate use of force

Misuse or excessive force does not only negatively affect human rights, but has implications for the legitimacy of the mission, the cooperation it receives from the local population and the example it provides to the host-State authorities.

It also negatively affects the legitimacy, operational capability and reputation of the UN mission, jeopardizes the implementation of the mission mandate and puts at risk the safety and security of UN personnel.

UNPOL officers must take these impacts into consideration for their own operations. Beyond this, during MMA activities, UNPOL shall alert the host-State authorities that excessive force undermines its legitimacy and effectiveness.

There is a risk of violence escalation, with increased risk to police officers. For instance, if police officers unnecessarily use firearms – even though they could have handled the situation with a lesser level of force, there is a risk that the target persons escalate their resistance and the officers themselves come under fire.

A police service that uses excessive force also loses the support of the local population, which is essential for the community-based and intelligence-driven policing model that UNPOL uses. This not least since excessive force also implies increased risk for innocent bystanders who may get into the line of fire.

Appropriate use of force

At the same time, when UNPOL uses force in a precise, timely, necessary and proportional manner to deliver the mission mandate, notably to protect civilians from violence or to defend mission personnel, it has a positive impact for the mission and the UN as a whole.

Failure to use force where the mandate requires can also result in disciplinary or criminal accountability, notably where UNPOL officers refuse to implement a lawful order to use force they receive from their chain of command.

Failure to use force also has a strong negative impact on the mission, similar to the misuse of or excessive use of force.

This consideration is particularly relevant since some UNPOL may feel so afraid of violating use of force standards that they fail to act altogether, or they use supposed fear of violating standards as pretext not to put themselves in harm's way.



To summarize the main take-aways from this lesson pose these three questions to the learners:

- **What?** What did you notice in this lesson? Which elements stood out to you?
- 2. **So What?** Make sense of the facts presented in this lesson. How do they affect your work as an IPO in the mission? Why is this important?
- 3. **Now What?** Based on the two previous questions which actions will you take with regard to ensuring the proper use of force and/or firearms once deployed?

Give learners a few minutes to reflect on the questions and let them share. The following points should be raised:

What?

- There are a set of internationally recognised standards and principles in use of force and firearms.
- UNPOL acts only in the law enforcement paradigm.
- The legal basis for UNPOL Use of Force is the Security Council mandate, SOFA, CONOPS and DUF, as well as host country law if applicable.
- UNPOL must apply the International Human Rights and Criminal Justice Standards in use of force and firearms.
- UNPOL's monitoring, mentoring and advising to host-State police is guided by the same international standards that also guide its own work.

So What?

- Principles of legality, necessity, proportionality, non-discrimination, precaution and accountability in the use of force must always be respected.
- UNPOL must always:
 - Properly react when host-State police use force in violation of human rights
 - Conduct proper planning of police operations
 - Follow the established procedures and comply with the standards in use of force and/or firearms
 - Set a good example

Now What?

When arriving in the mission, UNPOL staff, including at command level, must familiarise themselves with the mission-specific Directives on the Use of Force and Firearms (DUF) and assume the responsibilities they are assigned at mission level. UNPOL should ensure implementation of the International Human Rights and Criminal Justice Standards in line with the mission-specific procedures when carrying out MMA activities or in cases of use of force.

Reference Materials

Below are materials which are required reading for instructor preparations:

- DPKO-DFS Guidelines on Police Operations in United Nations Peacekeeping Operations and Special Political Missions, Ref. 2015.15, 01 January 2016
- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990)
- Code of Conduct for Law Enforcement Officials (1979)
- OHCHR, UNODC Resource book on the use of force and firearms in law enforcement (2017)
- OHCHR Training Series N.5, Human Rights and Law Enforcement: A Manual on Human Rights Training for the Police, pages 84-90